

HOUSE BILL REPORT

ESSB 5432

As Passed House - Amended:

April 20, 2005

Title: An act relating to the oil spill advisory council.

Brief Description: Creating the oil spill advisory council.

Sponsors: By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Spanel, Swecker, Poulsen, Doumit, Regala, Rockefeller, Pridemore, Haugen, Kohl-Welles, Fraser, Jacobsen, Shin and Kline).

Brief History:

Committee Activity:

Natural Resources, Ecology & Parks: 3/24/05, 4/1/05 [DPA];

Appropriations: 4/2/05 [DPA(NREP)].

Floor Activity:

Passed House - Amended: 4/20/05, 61-37.

Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Establishes a 16 member Oil Spill Monitoring and Oversight Council in the Office of the Governor to provide independent oversight, research and monitoring of the state's oil spill program.
- Directs the Council to report to the Governor and the Legislature with recommendations for the long-term funding of the council and the appropriate agency in which to locate the council.

HOUSE COMMITTEE ON NATURAL RESOURCES, ECOLOGY & PARKS

Majority Report: Do pass as amended. Signed by 8 members: Representatives B. Sullivan, Chair; Upthegrove, Vice Chair; Buck, Ranking Minority Member; Blake, Dickerson, Eickmeyer, Hunt and Williams.

Minority Report: Do not pass. Signed by 3 members: Representatives Kretz, Assistant Ranking Minority Member; DeBolt and Orcutt.

Staff: Jeff Olsen (786-7157).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Natural Resources, Ecology & Parks. Signed by 17 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McIntire, Miloscia and Schual-Berke.

Minority Report: Do not pass. Signed by 11 members: Representatives Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Bailey, Buri, Clements, Hinkle, Pearson, Priest, Talcott and Walsh.

Staff: Alicia Paatsch (786-7178).

Background:

The Legislature enacted oil spill prevention and response measures in 1991 to promote the safety of marine transportation and to protect state waters from oil spills. The Director of the Department of Ecology (DOE) has the primary authority to oversee prevention, abatement, response, containment and cleanup efforts for oil spills in state waters. The oil spill program requires oil spill prevention plans, contingency response plans, and financial responsibility requirement for vessels and facilities that may discharge oil into navigable waters.

The Oil Pollution Act of 1990 (OPA) was enacted largely in response to rising public concern following the Exxon Valdez oil spill. The OPA increased penalties for regulatory noncompliance, broadened the response and enforcement authorities of the federal government, and preserved state authority to establish law governing oil spill prevention and response. Section 5002 of OPA, also known as the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990, stated that involving local citizens in oil spill planning and response could foster a long-term partnership of industry, government, and local communities in overseeing compliance with environmental concerns at crude oil terminals.

The Oil Spill Early Action Task Force (Task Force) was co-convened by the DOE and the U. S. Coast Guard as a result of the Dalco Passage oil spill on October 14, 2004, in Puget Sound. The Task Force was charged with evaluating actions to be taken during the early stages of oil spills when meteorological conditions are adverse. Members of the Task Force include representation from a wide variety of interests including the Department of Ecology, the Coast Guard, industry, ports, local governments, tribes, ports, environmental organizations, and community groups. The Task Force produced a final report in January 2005, containing 11 recommendations. One recommendation was to evaluate all appropriate citizen advisory and involvement models, and another recommendation was for the creation of an independent assessment process for regional oil spill response.

Summary of Amended Bill:

A Citizens' Oil Spill Advisory Council (council) is created in the Office of the Governor to maintain the state's vigilance in the prevention of oil spills, while recognizing the importance of also improving preparedness and response. The council is advisory only. The council is composed of 16 members appointed by the Governor, plus two invited tribal representatives. The appointed members include: three representatives of environmental organizations; one representative of commercial shellfish interests; one representative of commercial fisheries that primarily fishes in Washington waters; one representative of marine recreation; one representative of tourism interests; three representatives of county government from three specified areas; one representative from marine labor; two representatives of marine trade interests; one representative of major oil facilities; one representative of public ports; and one individual who resides on a shoreline who has an interest, experience, and familiarity in the protection of water quality.

Appointments to the council must reflect a geographical balance and the diversity of populations within the areas potentially affected by oil spills in state waters. Members serve four-year terms and are reimbursed for travel expenses related to their duties. The Governor must appoint a chair-facilitator to serve as a nonvoting member of the council. The chair must not be an employee of a state agency, and must not have a financial interest in oil spill prevention and response. The council must meet at least four times a year, with specified locations for three of the meetings. Members of the council must be reimbursed for travel expenses and certain members are provided per diem.

The duties of the council include: the hiring of professional staff and expert consultants to support its work; consultation with government decision makers on all aspects of the state's oil spill programs and activities; providing independent advice, expertise, research, monitoring, and assessment of these programs; monitoring and providing information regarding state of the art programs; evaluating incident response reports; and, seeking and promoting citizens involvement. The council also serves as an advisory body on matters relating to international, national, and regional oil spill issues.

By September 1 of each year, the council must make recommendations for the continuing improvement of the state's oil spill prevention, preparedness, and response program. By September 15, 2006, the council must make proposals for the long-term funding of the council's activities and for the long-term sustainable funding for oil spill preparedness, prevention, and response activities.

The Department of Ecology must evaluate oil spill advisory committees and revise or eliminate functions which are no longer necessary.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (Natural Resources, Ecology & Parks) (In support) Washington needs an oil spill advisory committee, with broad representation at the table, to deal with oil spill prevention. Citizens want to prevent oil spills. Washington has a significant volume of shipping traffic that is increasing each year. Previous efforts to work with industry and regulators have not been balanced discussions. The committee should be independent. Funds for the advisory committee come from dedicated funds, not the General Fund.

(With concerns) The Council should not be located within the Governor's Office, and should be located in the Department of Ecology. Funding for the advisory committee is not in the Governor's budget and is not in the oil spill early action implementation funds. The composition of the Council should include a diverse group of stakeholders.

Testimony For: (Appropriations) This bill grew out of an early action task force that was in response to the Dalco oil spill. Despite the relatively small amount of oil that was spilled there was a significant amount of damage to coastal areas. The purpose of the bill is to establish a balanced advisory committee outside of the Department of Ecology. This proposal is very different than other advisory groups because it is outside of the Department of Ecology. The current composition of other advisory committees is 10 to one in favor of industry and they currently operate at a glacial pace and don't do much. There is funding in both the Governor's and Senate's budgets and the cost is estimated at \$500,000. In the Natural Resources, Ecology and Parks committee, the hiring of professional staff for the committee was removed, and we think that should have been left in the bill.

Testimony Against: (Natural Resources, Ecology & Parks) (Opposed) An additional oil spill advisory committee is unnecessary and duplicative. There are many existing committees dealing with oil spills that offer opportunities for citizen and stakeholder involvement. This bill does not address how this committee will be funded; the Alaskan committees require \$3 million to operate. The oil spill advisory committee should not be located within the Governor's Office, and should be in the Department of Ecology. The advisory committee looks like an operating entity, not an advisory only committee.

Testimony Against: (Appropriations) This bill is unnecessary. Currently, there are committees with citizen involvement within the Department of Ecology (DOE), such as the Harbor Safety Committee. If you move forward with this bill move the committee to DOE. Also, do not put this bill before the \$2 million that is funded in the Governor's budget from the oil spill prevention account, as this account is already tapped out. The bill specifies that funding will come from the \$2 million provided in the Governor's budget and the Senate budget provides \$500,000 of these funds for this bill. The bill takes money out of existing oil spill prevention programs and takes money from implementing the specific recommendations of the task force. The fiscal impacts were reduced in the previous committee and it would be cheaper if it was in the DOE.

Persons Testifying: (Natural Resources, Ecology & Parks) (In support) Senator Spanel, prime sponsor; Fred Felleman, Ocean Advocated; Kevin Ranker, San Juan County; Bill Dewey, Taylor Shellfish Company; and Naki Stevens, People for Puget Sound.

(Opposed) Greg Hanun, Western States Petroleum Association; Ron Shultz, Department of Ecology; Randy Ray, Pacific Merchant Shipping Association; Rick Wickman, Columbia River Steamships Operators; Gordon Baxter, International Longshore and Warehouse Union and Inland Boaters Union; and Cliff Webster, Maritime Environmental Coalition.

Persons Testifying: (Appropriations) (In support) Bruce Wishart, People for Puget Sound.

(Opposed) Scott Hazlegrove, Pacific Merchant Shipping Association; Cliff Webster, Maritime Environmental Coalition; Greg Hanon, Western States Petroleum Association; and Ron Shultz, Department of Ecology.

Persons Signed In To Testify But Not Testifying: (Natural Resources, Ecology & Parks) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.